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266 NLRB No. 191

D--9881  
Norfolk, VA

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

WORLD'S BEST JANITORIAL  
SERVICES, INC.

and

Case 5--CA--12399

MARGARETTE EDNEY, an Individual

SUPPLEMENTAL DECISION AND ORDER

On 5 November 1981 the National Labor Relations Board issued an Order <sup>1</sup> in the above-captioned proceeding in which, in the absence of exceptions thereto, it adopted the Decision of the Administrative Law Judge and ordered, inter alia, that the Respondent make whole Margarette Edney for loss of pay suffered by reason of the Respondent's discrimination against her in violation of Section 8(a)(1) of the Act. On 29 September 1982 the United States Court of Appeals for the Fourth Circuit entered its Judgment enforcing in full the Board's Order including its backpay provisions. A controversy having arisen over the amount of backpay due under the terms of the Board's Order as enforced by the court, the Regional Director for Region 5 on 5 January 1983 issued a backpay specification and notice of hearing setting forth certain allegations with respect to the amounts of backpay due the discriminatee under the Board's Order and notifying the

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<sup>1</sup> Not published in bound volumes.

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Respondent that it must file a timely answer pursuant to the Board's Rules and Regulations. The Respondent failed to file an answer to the specification.

On 30 March 1983 counsel for the General Counsel filed directly with the Board a Motion for Summary Judgment. Subsequently, on 11 April 1983 the Board issued an order transferring the proceeding to the Board and a Notice To Show Cause why the General Counsel's Motion for Summary Judgment should not be granted. The Respondent failed to file a response to the Notice To Show Cause.

Upon the entire record in this proceeding, the Board makes the following:

Ruling on the Motion for Summary Judgment

Section 102.54 of the Board's Rules and Regulations provides, in pertinent part, as follows:

(a) . . . The respondent shall, within 15 days from the service of the specification, if any, file an answer thereto . . . .

\* \* \* \* \*

(c) . . . If the respondent fails to file any answer to the specification within the time prescribed by this section, the Board may, either with or without taking evidence in support of the allegations of the specification and without notice to the respondent, find the specification to be true and enter such order as may be appropriate. . . .

The backpay specification and notice of hearing, issued and sent by certified mail to Respondent on 3 January 1983, and later served on Respondent on 10 February 1983, specifically states that the Respondent shall, within 15 days from the date of the specification, file an answer to the specification with the

Regional Director for Region 5 and that, if the answer fails to deny the allegations of the specification in the manner required under the Board's Rules and Regulations and the failure to do so is not adequately explained, such allegations shall be deemed to be admitted to be true and the Respondent shall be precluded from introducing any evidence controverting them. Counsel for the General Counsel informed the Respondent by certified mail on 21 March 1983 that its answer would have to be received by 28 March 1983 or it would be necessary to file for Summary Judgment. As of 30 March 1983, the date of the Motion for Summary Judgment, the Respondent had not filed an answer to the specification, nor has it requested an extension of time to file an answer, nor has said time been extended.

The Respondent failed to file a response to the Notice To Show Cause and, therefore, the allegations of the Motion for Summary Judgment <sup>2</sup> stand uncontroverted. As the Respondent has not filed an answer to the specification and has not offered any explanation for its failure to do so, in accordance with the rules set forth above, the allegations of the specification are deemed to be admitted as true and so found by the Board without the taking of evidence in support of said allegations.

Accordingly, on the basis of the allegations of the specification, the Board finds the facts therein to be true,

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<sup>2</sup> The General Counsel inadvertently describes the Administrative Law Judge's Decision as finding an 8(a)(1) and (3) violation while only an 8(a)(1) violation was found. The inaccuracy does not affect the merits of the General Counsel's motion as the backpay specification is based solely on the finding of the 8(a)(1) violation.

concludes that the net backpay due the discriminatee, Margarette Edney, is as stated in the computations of the specification, and hereinafter orders the payment thereof by the Respondent to the discriminatee.

## ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board hereby orders that the Respondent, World's Best Janitorial Services, Inc., its officers, agents, successors, and assigns, shall make whole the discriminatee, Margarette Edney, by payment to her of the amount set forth below, plus interest thereon computed in the manner specified in Isis Plumbing & Heating Co., 138 NLRB 716 (1962), as modified by Florida Steel Corporation, 231 NLRB 651 (1977), until payment of all backpay due, less the tax withholdings required by Federal and state laws: \$16,896.

Dated, Washington, D.C.

12 July 1983

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Donald L. Dotson, Chairman

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Howard Jenkins, Jr., Member

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Don A. Zimmerman, Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD